

Subpart A—General

§ 363.1 What is the State Supported Employment Services Program?

Under the State Supported Employment Services Program, the Secretary provides grants to assist States in developing and implementing collaborative programs with appropriate entities to provide programs of supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

(Authority: 29 U.S.C. 795j)

§ 363.2 Who is eligible for an award?

Any State is eligible for an award under this program.

(Authority: 29 U.S.C. 795n)

§ 363.3 Who is eligible for services?

A State may provide services under this program to any individual if—

(a) The individual has been determined eligible for vocational rehabilitation services in accordance with the criteria in section 102(a)(1) of the Act;

(b) The individual has been determined to be an individual with the most severe disabilities; and

(c) Supported employment has been identified as the appropriate rehabilitation objective for the individual on the basis of a comprehensive assessment of rehabilitation needs, including an evaluation of rehabilitation, career, and job needs.

(Authority: 29 U.S.C. 795m)

§ 363.4 What are the authorized activities under a State Supported Employment Services grant?

Under this program, the following activities are authorized:

(a) Any particularized assessment that is needed to supplement the comprehensive assessment of rehabilitation needs done under 34 CFR part 361 and that is provided subsequent to the development of the individualized written rehabilitation program. The supplementary assessment may be provided in circumstances such as the following:

(1) A reassessment of the suitability of the placement is warranted.

(2) There is a change in the individual's medical condition.

(b) Development of and placement in jobs for individuals with the most severe disabilities.

(c) Provision of supported employment services that are needed to support individuals with the most severe disabilities in employment, such as—

(1) Intensive on-the-job skills training and other training provided by skilled job trainers, co-workers, and other qualified individuals, and other services specified in section 103(a) of the Act in order to achieve and maintain job stability;

(2) Follow-up services, including regular contact with employers, trainees with the most severe disabilities, parents, guardians or other representatives of trainees, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement; and

(3) Discrete post-employment services following transition that are unavailable from an extended services provider and that are necessary to maintain the job placement, such as job station redesign, repair and maintenance of assistive technology, and replacement of prosthetic and orthotic devices.

(Authority: 29 U.S.C. 795l)

§ 363.5 What regulations apply?

The following regulations apply to the State Supported Employment Services Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 363.

(c) The following regulations in 34 CFR part 361 (The State Vocational Rehabilitation Services Program): §§ 361.31; 361.32; 361.33; 361.34; 361.35; 361.39; 361.40; 361.41; 361.42; 361.47(a); 361.48; and 361.49.

NOTE: Many of the regulatory provisions cross-referenced in § 363.5(c) are affected by statutory changes made by the Rehabilitation Act Amendments of 1992. If these provisions conflict with statutory language, they are superseded by the statutory language. Program regulations for part 361 are being amended to implement statutory changes. When final regulations for part 361 are published, these cross-references will be corrected, if necessary.

(Authority: 29 U.S.C. 795j and 711(c))

§ 363.6 What definitions apply?

(a) *Definitions in 34 CFR part 361.* The following terms used in this part are defined in 34 CFR 369.4(b):

Act
Designated State unit
Individual with disabilities
Individual with severe disabilities
State plan

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Fiscal Year
Nonprofit
Private Secretary
State

(c) *Other definitions.* The following definitions also apply to this part:

(1) *Supported employment* means—

(i) Competitive employment in an integrated setting with ongoing support services for individuals with the most severe disabilities—

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from the designated State unit and ex-

tended services after transition in order to perform this work; or

(ii) Transitional employment for individuals with the most severe disabilities due to mental illness.

(2) As used in the definition of “Supported employment”—

(i) *Competitive employment* means work—

(A) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(B) For which an individual is compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

(ii) *Integrated setting* means a setting typically found in the community in which an individual with the most severe disabilities interacts with non-disabled individuals, other than non-disabled individuals who are providing services to that individual, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(iii) *Supported employment services* means on-going support services provided by the designated State unit with funds under this part—

(A) For a period not to exceed 18 months, unless under special circumstances a longer period to achieve job stabilization has been jointly agreed to by the individual and the rehabilitation counselor and established in the individualized written rehabilitation program, before an individual with the most severe disabilities makes the transition to extended services; and

(B) As discrete post-employment services following transition in accordance with § 363.4(c)(3);

(iv) *Extended services* means on-going support services and other appropriate services provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part, part 381, part 376, or part 380, after an individual with the most severe disabilities has made the transition from State vocational rehabilitation agency support; and